

SEMINOLE COUNTY GOVERNMENT AGENDA MEMORANDUM

SUBJECT: Revised Second Amendment to Seminole County and City of Oviedo Community Park Agreement (Shane Kelly Park)

DEPARTMENT: County Manager Office

DIVISION:

AUTHORIZED BY: Cindy Coto

CONTACT: Don Fisher

EXT: 7212

MOTION/RECOMMENDATION:

Approve and authorize the Chairman to execute the attached revised Second Amendment to Seminole County and City of Oviedo Community Park Agreement as proposed by the City; or

Do not approve and authorize the Chairman to execute the attached revised Second Amendment to Seminole County and City of Oviedo Community Park Agreement as proposed by the City.

District 1 Bob Dallari

Don Fisher

BACKGROUND:

At the July 24, 2007 meeting, the Board approved the Second Amendment to Seminole County and City of Oviedo Community Park Agreement (County Agreement). The main focus of the County Agreement was to extend the time frame to construct bathroom facilities and to provide funding toward the construction of equestrian elements at Shane Kelly Park.

The Board made clarifications to the County Agreement in that the County's contribution would not exceed \$250,000 for equestrian elements (trailhead and trail) and that costs would be shared equally with the City. Further, the Board clarified that the City shall expend a minimum of \$250,000 for completion of the approved master plan for the Park and that the City's shall use general funds and not grants or other funding sources for its match.

The County Agreement was sent to the City for its consideration. The City did not execute the County Agreement and instead, proposed its own Second Amendment to Seminole County and City of Oviedo Community Park (City Agreement). The City proposes the following changes:

- Eliminate the specification for a minimum trail width of 8' wide mulch or 10' wide boardwalk in Section 15 (a). The City Agreement does reference a trail connection; however it is silent to a width;
- Delete Section 15 (f) requiring the City to expend a minimum of \$250,000 for completion of the approved master plan paid from the City's general fund and not from grants or other funding sources;
- Section 15 (g) of the County Agreement is now 15 (f) of the City Agreement and proposes to extend the time to construct the trailhead and trail connection from June 1, 2008 to December 31, 2008;

- A new Section 15 (g) provides: "Following completion of the construction of the Trailhead and Trail contemplated herein, the parties agree that the City's obligations, commensurate with the City's 2001 original intent to develop an equestrian element as part of the planned public improvements at Shane Kelly Park, are deemed to be fulfilled."

Also attached is City of Oviedo Resolution 1641-07 that:

- Repeals all previous resolutions and Council direction regarding equestrian uses at Shane Kelly Park;
- Expresses an intent to collaborate with the Board of County Commissioners in the construction of 20 unpaved parking spaces, trailhead, and trail connection equally with the County and at an amount not to exceed \$250,000 in City funds;
- Requests that a fully executed agreement be returned to the City within 45 days of receipt by the County Commission; and,
- The City will consider its obligations, commensurate with the City's original intent to develop an equestrian element as part of the planned public improvements at Shane Kelly Park fulfilled; and
- Development of additional equestrian uses at Shane Kelly Park will be decided by the City Council, and reserves the right to determine the types of future facilities to be constructed.

Attachments:

- County Agreement
- Letter from City Manager
- City Agreement
- City Resolution 1641-07

ATTACHMENTS:

1. Agreement
2. Agreement

Additionally Reviewed By:

☒ County Attorney Review (Ann Colby)

**SECOND AMENDMENT TO SEMINOLE COUNTY AND CITY OF OVIEDO
COMMUNITY PARK AGREEMENT**

THIS SECOND AMENDMENT is made and entered into this _____ day of _____, 2007, and is to that certain Agreement made and entered into on January 30, 2001, as amended January 30, 2006, between CITY OF OVIEDO, FLORIDA, a municipal corporation, whose address is 400 Alexandria Boulevard, Oviedo, Florida 32765, hereinafter referred to as "CITY," and SEMINOLE COUNTY, a political subdivision of the State of Florida, whose address is Seminole County Services Building, 1101 East First Street, Sanford, Florida 32771, hereinafter referred to as "COUNTY."

W I T N E S S E T H:

WHEREAS, CITY and COUNTY entered into the above-referenced Agreement on January 30, 2001, as amended January 30, 2006, for the development and operation of a multipurpose community park; and

WHEREAS, the parties desire to amend the Agreement so as to enable both parties to continue to enjoy the mutual benefits it provides; and

WHEREAS, Section 7 of the Agreement provides that any amendments shall be valid only when expressed in writing and duly signed by the parties,

NOW, THEREFORE, in consideration of the mutual understandings and agreements contained herein, the parties agree to amend the Agreement as follows:

1. Section 2(b) of the Agreement is amended to read:

(b) In the event that the WINTER MILES PROPERTY is not developed in accordance with Section 2(a) by December 31, 2007, CITY agrees to repay COUNTY the full amount of COUNTY's contribution as described in Section 3 below; provided, however, that in the event substantial completion, as determined by COUNTY, has occurred by December 31, 2007, CITY agrees to repay COUNTY fifty percent (50%) of COUNTY's contribution

as described in Section 3 below. Substantial completion shall include, at a minimum, the three (3) lighted multi-purpose fields (minimum three (3) acres each).

2. Section 15 is hereby added to the Agreement, to read:

SECTION 15. ADDITIONAL TRAILHEAD AND TRAIL CONSTRUCTION.

(a) CITY agrees to provide design and construction services for a Trailhead consisting of an unpaved, stabilized access drive, twenty (20) unpaved equestrian parking spaces and a Trail section which will provide connection to Lockwood Boulevard to allow access to the County's Trail System and which shall be an eight (8) foot wide, mulch-covered, firm unyielding surface and/or a ten (10) foot wide boardwalk.

(b) CITY shall be responsible for managing and directing the preparation of the design and engineering construction plans for the Trailhead and Trails, including the preparation and submittal of the application for all required permits and approvals therefore. CITY may utilize one of its continuing ~~services~~ contract consultant's for the preparation of the design and engineering construction plans. CITY shall provide COUNTY with construction plans which include a summary of pay items, cost, and scope for County Engineer's review and approval. County Engineer's Office shall complete its review process and respond to CITY within thirty (30) days after its receipt of the plans. Failure to provide written response within such period shall be deemed approval.

(c) COUNTY and CITY shall equally share all costs, fees, and expenses incurred for the design and construction of the Trailhead and Trail, including without limitation construction plan preparation, engineering, surveying, soils investigation, environmental, and permitting costs and fees, in an amount not to exceed TWO HUNDRED FIFTY THOUSAND AND NO/100 DOLLARS (\$250,000.00) for the COUNTY and TWO HUNDRED FIFTY THOUSAND AND NO/100 DOLLARS (\$250,000.00) for the CITY. In no

case shall the amount of reimbursement money from COUNTY exceed TWO HUNDRED FIFTY THOUSAND AND NO/100 DOLLARS (\$250,000.00) or the actual cost of design and construction of the improvements described in Section 15(a) above, whichever is less.

Payment of the COUNTY's share to the CITY shall be on a monthly basis, within thirty (30) days after receipt by COUNTY of a written invoice request from CITY and inspection, approval, and acceptance by COUNTY of the portion of work for which payment is requested. The costs of obtaining the bonds and insurance required for construction shall be deemed a cost of construction.

(d) CITY shall cause construction of the Trailhead and Trail to be in accordance with the approved construction plans and permits. Construction changes and deviations from the approved construction plans will not be permitted unless prior approval from COUNTY is obtained. COUNTY shall have the right to withhold payment in the event that construction is not performed in accordance with the approved construction plans. Written notice shall be provided to CITY identifying the deficient construction. If the deficiency is not corrected, COUNTY has the right to subtract payment of the items from its portion of the funding.

(e) Upon completion of construction of the Trailhead and Trail, CITY shall be responsible for the day-to-day operations and all maintenance and repair of both. All maintenance and repair of the COUNTY Trailhead and Trail includes both the ground maintenance and the structural integrity in a manner consistent with CITY's parks.

(f) CITY shall expend a minimum of TWO HUNDRED FIFTY THOUSAND AND NO/100 DOLLARS (\$250,000.00) for completion of the approved master plan for Shane Kelly Park with said funds to be paid from CITY's general fund and not from grants or other funding sources.

(g) In the event the Trailhead and Trail are not completed in accordance with the approved construction plan on or before June 1, 2008, CITY agrees to repay COUNTY the full amount of COUNTY's contribution as of that date, not to exceed the sum of TWO HUNDRED FIFTY THOUSAND AND NO/100 DOLLARS (\$250,000.00).

3. Except as herein modified, all terms and conditions of the Agreement shall remain in full force and effect for the term of the Agreement, as originally set forth in said Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this instrument for the purpose herein expressed.

ATTEST:

CITY OF OVIEDO

BARBARA BARBOUR, City Clerk

By: _____
THOMAS G. WALTERS, Mayor

(CORPORATE SEAL)

Date: _____

ATTEST:



BOARD OF COUNTY COMMISSIONERS
SEMINOLE COUNTY, FLORIDA

MARYANNE MORSE
Clerk to the Board of
County Commissioners of
Seminole County, Florida.

By: _____
CARLTON HENLEY, Chairman

Date: _____

For the use and reliance
of Seminole County only.

Approved as to form and
legal sufficiency.

As authorized for execution
by the Board of County Commissioners
at their _____, 2007
regular meeting.

County Attorney

AEC:jjr/dg/jjr
1/10/07; 1/23/07; 7/24/07; 7/25/07
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The City of
Oviedo
FLORIDA

RECEIVED

AUG 27 2007

SEMINOLE COUNTY
COUNTY MANAGER



400 ALEXANDRIA BOULEVARD • OVIEDO, FLORIDA 32765

August 23, 2007

Mr. Don Fisher
Assistant County Manager
Seminole County
1101 East First Street
Sanford, FL 32771

RE: Second Amendment to Seminole County and City of Oviedo Community Park Agreement-Equestrian Uses

Dear Mr. Fisher:

At its July 24, 2007 meeting, the Board of County Commissioners approved a Second Amendment to the Seminole County and City of Oviedo Community Park Agreement. You provided that agreement to me on July 26th. In turn, I shared those documents with the members of the Oviedo City Council.

The issue was discussed by our City Council at a special meeting on Monday, July 30th and subsequently, the City Council took up consideration of a resolution regarding the proposed equestrian element at the Shane Kelly Park. That Resolution, No.1641-07, was adopted by the City Council at its August 20th regular meeting. A copy of the resolution is enclosed.

As part of that resolution, the City Council did approve a *revised* Second Amendment to the Seminole County and City of Oviedo Community Park Agreement. The content of that agreement is slightly different than what was approved by the County Commission in late July. I am enclosing a copy of the signed resolution and the executed agreement between the City and the County.

As part of its policy direction in this matter, the City Council has asked that the Board of County Commissioners take up consideration of this Second Amendment Agreement and provide the City with a response within forty five (45) days. The City has halted design of the trail, trailhead, and parking facility improvements until such time as a mutually satisfactory agreement has been executed by all parties.

In its resolution and in this agreement, the City Council has reaffirmed its commitment to participate with the Board of County Commissioners in the construction of an equestrian element at the Shane Kelly Park and to share equally the costs of the trail, trailhead, and parking facilities to serve this use. The City has included the project in its Capital Program in the current fiscal year and implementation of the project is ready to proceed, once a signed agreement has been received by the City.

Should you or other members of the staff have any questions regarding the City Council's action in this matter, please do not hesitate to contact me directly at (407) 971-5558.

Sincerely yours,

Gerald J. Seeber
City Manager

Mr. Don Fisher
August 23, 2007
Page 2 of 2

cc: City Council
Barbara Barbour
Tony Segreto
Dru Boulware

***Second Amendment to Seminole County and City of Oviedo
Community Park Agreement***

This Second Amendment is made and entered into this _____ day of _____, 2007, and is to that certain Agreement made and entered into on January 30, 2001, as amended January 30, 2006, between **City of Oviedo, Florida**, a municipal corporation, whose address is 400 Alexandria Boulevard, Oviedo, Florida 32765, hereinafter referred to as "City," and **Seminole County**, a political subdivision of the State of Florida, whose address is Seminole County Services Building, 1101 East First Street, Sanford, Florida 32771, hereinafter referred to as "County."

WITNESSETH:

WHEREAS, CITY and COUNTY entered into the above-referenced Agreement on January 30, 2001, as amended January 30, 2006, for the development and operation of a multipurpose community park; and

WHEREAS, the parties desire to amend the Agreement so as to enable both parties to continue to enjoy the mutual benefits it provides; and

WHEREAS, Section 7 of the Agreement provides that any amendments shall be valid only when expressed in writing and duly signed by the parties.

NOW, THEREFORE, in consideration of the mutual understandings and agreements contained herein, the parties agree to amend the Agreement as follows:

1. Section 2 (b) of the Agreement is amended to read:
(b) In the event that the WINTER MILES PROPERTY is not developed in accordance with Section 2(a) by December 31, 2007, CITY agrees to repay COUNTY the full amount of the COUNTY'S contribution as described in Section 3 below; provided, however, that in the event substantial completion, as determined by COUNTY, has occurred by December 31, 2007, CITY agrees to repay COUNTY fifty percent (50%) of COUNTY'S contribution as described in Section 3 below. Substantial completion shall include, at a minimum, the three (3) lighted multi-purpose fields (minimum three (3) acres each).

2. Section 15 is hereby added to the Agreement, to read:

SECTION 15. ADDITIONAL TRAILHEAD AND TRAIL CONSTRUCTION.

(a) CITY agrees to provide design and construction services for a Trailhead consisting of a stabilized access drive, twenty (20) unpaved equestrian parking spaces for horse trailers and trucks, and a Trail section which will provide connection to Lockwood Boulevard to allow access to the County's Trail System.

(b) City shall be responsible for managing and directing the preparation of the design and engineering construction plans for the Trailhead and Trails, including the preparation and submittal of the application for all required permits and approvals therefore. CITY may utilize one of its continuing services contract consultant's for the preparation of the design and

engineering construction plans. CITY shall provide COUNTY with construction plans which include a summary of pay items, cost, and scope for County Engineer's review and approval.

County Engineer's office shall complete its review process and respond to CITY within thirty (30) days after its receipt of the plans. Failure to provide written response within such period shall be deemed approval.

(c) COUNTY and CITY shall equally share all costs, fees, and expenses incurred for the design and construction of the Trailhead and Trail, including without limitation construction plan preparation, engineering, surveying, soils investigation, environmental, and permitting costs and fees, in an amount not to exceed TWO HUNDRED FIFTY THOUSAND AND NO/100 DOLLARS (\$250,000.00) for the COUNTY and TWO HUNDRED FIFTY THOUSAND AND NO/100 DOLLARS (\$250,000.00) for the CITY. In no case shall the amount of reimbursement money from COUNTY exceed TWO HUNDRED FIFTY THOUSAND AND NO/100 DOLLARS (\$250,000.00) or the actual cost of design and construction of the improvements described in Section 15 (a) above, whichever is less.

Payment of the COUNTY'S share to the CITY shall be on a monthly basis, within thirty (30) days after receipt by COUNTY of a written invoice request from CITY and inspection, approval, and acceptance by COUNTY of the portion of work for which payment is requested. The costs of obtaining the bonds and insurance required for construction shall be deemed a cost of construction.

(d) CITY shall cause construction of the Trailhead and Trail to be in accordance with the approved construction plans and permits. Construction changes and deviations from the approved construction plans will not be permitted unless prior approval from COUNTY is obtained. COUNTY shall have the right to withhold payment in the event that construction is not performed in accordance with the approved construction plans. Written notice shall be provided to CITY identifying the deficient construction. If the deficiency is not corrected, COUNTY has the right to subtract payment of the items from its portion of the funding.

(e) Upon completion of construction of the Trailhead and Trail, CITY shall be responsible for the day-to-day operations and all maintenance and repair of both. All maintenance and repair of the COUNTY Trailhead and Trail includes both the ground maintenance and the structural integrity in a manner consistent with CITY'S parks.


(f) In the event the Trailhead and Trail are not completed in accordance with the approved construction plan on or before December 31, 2008, CITY agrees to repay COUNTY the full amount of COUNTY'S contribution as of that date, not to exceed the sum of TWO HUNDRED FIFTY THOUSAND AND NO/100 DOLLARS (\$250,000.00).

(g) Following completion of the construction of the Trailhead and Trail contemplated herein, the parties agree that the City's obligations, commensurate with the City's 2001 original intent to develop an equestrian element as part of the planned public improvements at the Shane Kelly Park, are deemed to be fulfilled.

3. Except as herein modified, all terms and conditions of the Agreement shall remain in full force and effect for the term of the Agreement, as originally set forth in said Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this instrument for the purpose herein expressed.

ATTEST:


BARBARA BARBOUR
City Clerk

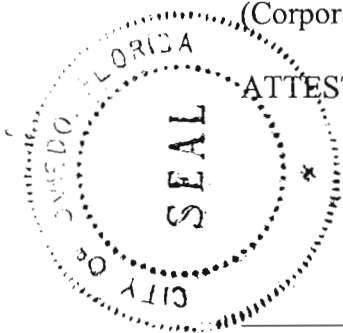
CITY OF OVIEDO

By: 

THOMAS G. WALTERS
Mayor

(Corporate Seal)

ATTEST:



MARYANNE MORSE
Clerk to the Board of
County Commissioners of
Seminole County, Florida.

For the use and reliance of
Seminole County only.

Approved as to form and legal
sufficiency.

County Attorney

Date: _____

BOARD OF COUNTY
COMMISSIONERS
SEMINOLE COUNTY,
FLORIDA

By: _____
CARLTON HENLEY, Chairman

Date: _____

As authorized for execution by the
Board of County Commissioners at
their _____, 2007
regular meeting.

RESOLUTION NO. 1641-07

**A RESOLUTION OF THE CITY OF OVIEDO, FLORIDA, REGARDING
PROPOSED EQUESTRIAN USES AT THE SHANE KELLY PARK.**

WHEREAS, the City Council has previously adopted Resolutions Nos. 811-04, 1183-05, 1419-06 and 1545-07 setting forth the Council's policy intentions regarding the development of an equestrian element at the Shane Kelly Park; and

WHEREAS, the Board of County Commissioners has collaborated successfully with the City in the provision of public safety services, such as emergency medical response and fire service dispatching, to our mutual constituents in Oviedo; and

WHEREAS, the Board of County Commissioners has collaborated successfully with the City in the provision of public works services, such as traffic safety operations, transportation planning and funding for the SR 426/CR 419 improvement project, traffic signal maintenance, right of way maintenance along county roads, and school zone safety improvements for the benefit of the residents of Oviedo; and

WHEREAS, in an effort to fulfill the City's original intent to partner with an equestrian group that would raise the necessary funds to design and construct an equestrian element at the Shane Kelly Park, the City held a number of discussions with the members of the Friends of Winter Miles over the past three years to develop a collaborative plan for the development of an equestrian element; and

WHEREAS, the City Council has previously agreed to designate an area of approximately 20 acres at the Shane Kelly Park for the development of an equestrian element at the Park; and

WHEREAS, the City Council has previously agreed to earmark funds from its discretionary account in the General Fund to match the amounts raised by the Friends of Winter Miles at its fund raising events held at the Shane Kelly Park; and

WHEREAS, since 2001, the City Council has expended \$6,108,975 from various sources for the acquisition and development of public recreational facilities at the Shane Kelly Park and the Board of County Commissioners has generously contributed \$1 million of that total; and

WHEREAS, the City Council and the Board of County Commissioners met in a joint work session on August 8, 2006 to discuss issues of mutual concern and interest, including the development of an equestrian element at the Shane Kelly Park, at which time the Board of County Commissioners and the City Council agreed to collaborate by each contributing \$250,000 for the development of an equestrian trail, a trailhead and parking facilities at the Shane Kelly Park; and

WHEREAS, on February 5, 2007, the Board of County Commissioners provided the City with a document entitled "Second Amendment to the Seminole County and City of Oviedo Community Park Agreement" setting forth the County's formal offer of \$250,000 in financial assistance for the development of an equestrian trail, a trailhead and 20 unpaved parking spaces at the Shane Kelly Park, and

WHEREAS, four weeks later on March 5, 2007, the City Council approved the same "Second Amendment to the Seminole County and City of Oviedo Community Park Agreement" without making any changes, to provide for, among other things, the design and construction an equestrian trail, a trailhead, and 20 unpaved parking spaces at the Shane Kelly Park; and

WHEREAS, both the City Council and the Board of County Commissioners are charged this summer with developing a budget for the upcoming fiscal year in the face of significant cutbacks in local property tax income, arising from the legislation adopted this past June to provide property tax relief to Florida taxpayers; and

WHEREAS, at its July 24, 2007 meeting, the Board of County Commissioners elected to modify and amend the "Second Amendment to the Seminole County and City of Oviedo Community Park Agreement" that had been previously approved by the Oviedo City Council and to adopt that newly revised agreement that included a requirement that the City commit \$250,000 in funding for "completion of the approved master plan for Shane Kelly Park."

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF OVIEDO, FLORIDA, AS FOLLOWS:

SECTION 1. Resolutions No. 811-04, No. 1183-05, No. 1419-06 and No. 1545-07, all of which addressed proposed equestrian uses at the Shane Kelly Park, are hereby repealed. Furthermore, all previous actions of the City Council that provided policy direction for approval for specific equestrian use improvements at the Shane Kelly Park are hereby repealed.

SECTION 2. It is the City's intent to collaborate with the Board of County Commissioners in the construction of twenty (20) unpaved parking spaces, a trailhead, and a trail facility at the Shane Kelly Park. To that end, the City will agree to share equally with the Board of County Commissioners, up to a maximum of \$250,000 in City funds, the costs of design, permitting, and construction of these specific equestrian improvements. Furthermore, the revised Second Amendment to Seminole County and City of Oviedo Community Park Agreement, a copy of which is attached hereto and made a part hereof, is hereby approved.

SECTION 3. The City Manager is hereby directed to forward a copy of the revised Second Amendment to Seminole County and City of Oviedo Community Park Agreement to the Board of County Commissioners with a request that a fully executed agreement be returned to the City within forty five (45) days after receipt by the County Commission.

SECTION 4. Following completion of the construction of such improvements as are contemplated in the approved Second Amendment to Seminole County and City of Oviedo


Community Park Agreement, or the rejection of the revised agreement by the Board of County Commissioners, the City will consider its obligations, commensurate with the City's 2001 original intent to develop an equestrian element as part of the planned public improvements at the Shane Kelly Park, fulfilled. Notwithstanding, the City may consider collaborative partnerships with other private or public partners for the development of additional equestrian uses at the Park in the future.

SECTION 5. The development of additional equestrian uses at the Shane Kelly Park will be decided upon by the City Council. It is the City's intent to minimize its additional capital construction and long term operating costs for the development and operation of equestrian uses at the Shane Kelly Park.

SECTION 6. The City Council reserves the right to determine the types of facilities that will be constructed in the future at the Shane Kelly Park and the level of City funding that may be required in future years to implement the City Council's plans for development of recreational uses at the facility.

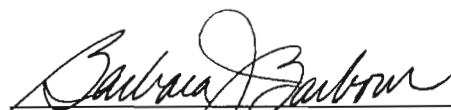
This Resolution shall become effective immediately upon its passage and adoption.

PASSED AND ADOPTED THIS 20th day of August, 2007.



THOMAS G. WALTERS
MAYOR of the City of Oviedo, Florida

ATTEST:



Barbara J. Barbour
City Clerk

